

### **REMARKS**

In the Office Action mailed August 2, 2007 from the United States Patent and Trademark Office, the Examiner rejected claims 1-25 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0049391 to Polanyi et al. (hereinafter "Polanyi"). Applicants therefore respectfully provide the following:

M.P.E.P. § 2131 sets forth the standard for a rejection of a claim as anticipated under 35 U.S.C. § 102. "To anticipate a claim, the reference must teach every element of the claim." M.P.E.P. § 2131 states further,

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). . . . "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicants respectfully submit that the reference cited by the Examiner fails to teach every element of the claim set as provided herein for the following reasons.

Claim 1, as amended, requires: "A method for determining speech fluency of an individual, the method comprising: obtaining one or more speech samples from the individual; identifying variables present in the speech samples; obtaining an average length of speech run by the individual; obtaining an average length of silent pause by the individual; measuring a total amount of silent time by the individual; measuring a total amount of speech time by the individual; measuring a total number of speech runs by the individual; dynamically analyzing and selectively weighting the variables to determine a speech fluency score; comparing the speech fluency score with established fluency ranges; and indicating the speech fluency of the individual based on the dynamic analysis, weighting and comparison." Applicants respectfully

submit that Polanyi fails to teach all the limitations of claim 1 recited above. Therefore, Polanyi fails to anticipate claim 1.

Polanyi teaches a system for assessing reading fluency based on spoken responses during a reading aloud session of a text that has been evaluated for disclosure structure and information structure of sentences. (Abstract) To make an assessment of reading fluency, Polanyi relies on analysis of a speaker's prosodics and intonations. (0013) As one of skill in the art would readily appreciate, prosodics and intonations deal with the stresses, pitches, amplitudes, and durations of stressed words in speech. Indeed, Polanyi also teaches that this is the intended meaning of prosodics and intonations. Polanyi defines prosody metrics as including "speech rhythm," "speech stress," and "speech intonation." (0051) Polanyi also defines speech intonation metrics as including pitch level, pitch range, speech rate, and speech amplitude. (0052) In Polanyi, these metrics are used in conjunction with the knowledge of the information in the sentences that is "new" to ensure that the reader comprehends what is being read. (0029) Polanyi fails to teach the limitations of "obtaining an average length of speech run by the individual," "obtaining an average length of silent pause by the individual," "measuring a total amount of silent time by the individual," "measuring a total amount of speech time by the individual," "measuring a total number of speech runs by the individual," and "dynamically analyzing and selectively weighting the variables to determine a speech fluency score." Therefore, for at least these reasons, Applicants respectfully submit that Polanyi fails to anticipate claim 1.

Claim 13 contains similar limitations to those discussed above with respect to claim 1, and is therefore similarly allowable. Claims 2, 7-12, 14, 20-23, and 26 depend from one of claims 1 or 13, and are therefore similarly allowable. Therefore, Applicants respectfully request removal of the rejections of all remaining claims.

**CONCLUSION**

Applicants submit that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicants request favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

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Respectfully submitted,

/Adam Stevens/  
Adam D. Stevens  
Attorney for Applicant  
Registration No.: 58,577

KIRTON & McCONKIE  
1800 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Telephone: (801) 350-7660  
Facsimile: (801) 321-4893